

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Tony L. Hammond; and
Nanci E. Langley

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2011-67

ORDER APPROVING ADDITIONAL
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 1
NEGOTIATED SERVICE AGREEMENT

(Issued August 18, 2011)

I. INTRODUCTION

The Postal Service seeks to add a specific Global Reseller Expedited Package contract to the Global Reseller Expedited Package (GREP) Contracts 1 product established in Docket No. MC2010-21.¹ For the reasons discussed below, the Commission approves the proposed contract.

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application For Non-Public Treatment of Materials Filed Under Seal, August 3, 2011 (Notice).

II. BACKGROUND

On August 3, 2011, the Postal Service filed a Notice announcing that it has entered into an additional GREP contract. The Postal Service asserts that the instant contract is functionally equivalent to the GREP baseline agreement and is supported by Governors' Decision No. 10-1, attached to the Notice and originally filed in Docket No. CP2010-36. *Id.* at 1, Attachment 3. The Notice explains that Order No. 445, which established GREP Contracts 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633.² *Id.* at 1-2.

The Postal Service filed the instant contract pursuant to 39 CFR 3015.5 and in accordance with Order No. 445. The Postal Service states that it will notify the mailer of the effective date within 30 days after all necessary regulatory approvals have been received. Notice at 3, Attachment 1 at 5. The term of the contract is one year from the effective date. It may, however, be terminated by either party on not less than 30 days' written notice. *Id.*

The Postal Service filed supporting materials including Governors' Decision No. 10-1 and an application for non-public treatment of materials filed under seal.

The Notice advances reasons why the instant GREP contract fits within the Mail Classification Schedule language for GREP Contracts 1. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contract from the baseline GREP agreement. *Id.* at 4-6. It states that the instant contract satisfies the requirements established by Governors' Decision No. 10-1 concerning rates for GREP contracts. *Id.* at 3-4.

The Postal Service concludes that its filing demonstrates that the instant GREP contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GREP contract. It states that the differences do not affect the services

² The Postal Service's Notice also inadvertently stated that the instant agreement is a renewal of the contract in Docket No. CP2010-36.

being offered or the fundamental structure of the contract. Therefore, it requests that the instant contract be included within the GREP Contracts 1 product. *Id.* at 6.

In Order No. 790, the Commission gave notice of the docket, appointed a Public Representative, and provided the public with an opportunity to comment.³

III. COMMENTS

Comments were filed by the Public Representative.⁴ No other interested person submitted comments. The Public Representative reviews the contract's functional equivalence with the baseline agreement in Docket No. CP2010-36 and compliance with 39 U.S.C. 3633(a). *Id.* at 2 -3. She observes that the instant contract includes nearly the same products, but is distinguishable by the exclusion of Express Mail International (EMI) and Priority Mail International (PMI) flat rate items from the definition of qualifying mail. *Id.* at 2. The Public Representative concludes that their exclusion does not alter the instant contract's functional equivalence with the baseline GREP contract. *Id.*

The Public Representative concludes that the instant contract complies with requirements of 39 U.S.C. 3633 for competitive negotiated service agreements and recommends the Commission's approval. *Id.*

IV. COMMISSION ANALYSIS

The Postal Service proposes to add an additional contract under the GREP Contracts 1 product that was created in Docket No. MC2010-21. First, the Commission reviews the contract to ensure that it is substantially equivalent to the contract approved in Docket No. CP2010-36, and thus belongs as part of the GREP Contracts 1 product.

³ Notice and Order Concerning an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, August 4, 2011 (Order No. 790).

⁴ Public Representative Comments In Response to United States Postal Service Notice Regarding Entry Into an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, August 12, 2011 (PR Comments).

Second, the Commission must ensure that the contract at issue in this proceeding satisfies the requirements of rules 3015.5 and 3015.7, and 39 U.S.C. 3633.

Functional equivalence. The Postal Service states that the contract shares similar cost and market characteristics with the baseline contract. It asserts that the instant contract meets the pricing formula and classification established in Governors' Decision No. 10-1 which comport with 39 U.S.C. 3633 and the Commission's rules. The Postal Service states that the instant contract differs from the contract in Docket No. CP2010-36 regarding customer-specific information, e.g., customer's name, address, signatory and representative, and regarding certain more general provisions, e.g., qualifying mail, applicable discounts, confidentiality, rate groups, minimum revenue commitment and provisions clarifying the periodic review of the reseller's mail volume and other obligations. Notice at 4-6.

In Order No. 755, the Commission found that the exclusion of flat rate items from the definition of "qualifying mail" did not have a significant effect on the functional equivalence of the GREP contract which was the successor agreement to the contract in Docket No. CP2010-36.⁵ As noted by the Public Representative, the elimination of the flat rate mail items should not substantially affect revenues, costs or compliance with 39 U.S.C. 3633.

The instant contract appears to be similar to the contract filed in Docket No. CP2010-36, although it differs in some minor respects relative to customer-specific information and general terms. These differences notwithstanding, the Commission concludes that the instant contract may be included in the GREP Contracts 1 product.⁶

⁵ See Docket No. CP2011-65, Order Approving Additional Global Expedited Reseller Package Contract Negotiated Service Agreement, June 30, 2011 (Order No. 755).

⁶ In Order No. 755, the Commission stated, "[b]ecause the instant contract is the successor to the existing GREP baseline contract, it in essence becomes the baseline for future GREP Contracts 1." Docket No. CP2011-65, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, June 30, 2011, at n.4 (Order No. 755). In future filings, the Postal Service is directed to use the contract in Docket No. CP2011-65 as the baseline agreement for future GREP Contracts 1.

Cost considerations. The Commission reviews competitive products to ensure that they meet the applicable requirements of rules 3015.5 and 3015.7, and 39 U.S.C. 3633. The Commission has reviewed the Notice, financial analyses provided under seal that accompanies the instant contract, as well as the comments filed in this proceeding.

Based on the information provided, the Commission finds that the contract submitted should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, a preliminary review of the instant contract indicates that it comports with the provisions applicable to rates for competitive products.

Other considerations. The Postal Service shall notify the Commission of the effective date of the instant contract. If the instant contract terminates earlier than scheduled, the Postal Service shall inform the Commission prior to the new termination date.

In addition, within 30 days of the expiration of the instant contract, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

In conclusion, the Commission finds that the contract submitted in Docket No. CP2011-67 is appropriately included within the GREP Contracts 1 product.

V. ORDERING PARAGRAPHS

It is ordered:

1. The contract filed in Docket No. CP2011-67 is included within the Global Reseller Expedited Package Contracts 1 (MC2010-21) product.

2. The Postal Service shall notify the Commission of the effective date of the instant contract and update the Commission if the contract terminates prior to the scheduled termination date as discussed in this Order.
3. Within 30 days of the expiration of the instant contract, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the contract, including any penalties paid.

By the Commission.

Shoshana M. Grove
Secretary